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18 FEB 1972

MEMORANDUM FOR: Executive Director

SUBJECT : S.2515, Equal Employment Opportunities
Enforcement Act of 1971

REFERENCE : Memorandum for the Record dtd 3 December
1971, Same Subject

1. As pointed out in referent memorandum, S.2515 provides a specific statutory basis for court challenge of the Director's 102(c) termination authority on an allegation that the termination was based on discrimination on account of race, color, religion, sex or national origin.

2. Both the Senate and House proponents of the legislation believe that the proper forum for handling our problem is the conference committee which will be appointed to resolve the differences between the Senate bill, if and when it is passed, and the House passed bill.

3. The Senate side is only willing to go so far as to provide legislative history in the conference report to the effect that there is no intent to impair the Director's authority. If we can't get a specific amendment to satisfy our needs, the General Counsel feels that legislative history to this effect would be better than nothing.


(a) The first choice would be a low profile amendment (attachment A) which does not make specific reference to Agency authorities. However, it is broader than the Civil Service Commission desires since it exempts a number of other agencies from the proposed law.

(b) The second choice amendment would be a modified version of what had been proposed to the Senate side by the Civil Service Commission (attachment B). It makes specific reference to Agency authorities.

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4. If the Senate passes the bill, there is a slight possibility that the House conferees would insist that the provision in question be limited to the "competitive service" which would satisfy our needs completely. Failing this, and subject to your approval, we intend to propose the above amendments to the House proponents for consideration in conference. Obviously, we must be careful that our efforts in this connection do not draw criticism from either the Civil Service Commission or the Senate proponents.

25X1A



JOHN M. MAURY
Legislative Counsel

Atts

CONCURRENCE:

General Counsel

Date

APPROVAL:

W. E. Colby
Executive Director

Date

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Page 66, line 5, add new subsection (f):

"SEC. 717. (f) Notwithstanding any other provision of this section, this section shall not apply to any personnel action if the position involved is subject to any requirement imposed in the interest of the national security of the United States and a determination that the requirement is not fulfilled is made by the head of an executive agency as defined in section 105 of Title 5, United States Code, having discretionary authority to terminate the employment of the incumbent of the position whenever he shall determine such termination necessary or advisable in the interest of the United States or the national security."

TAB

Page 66, line 5, add new subsection (f):

"SEC. 717. (f) Nothing in this statute should be construed as requiring the disclosure of information involving the national security otherwise prohibited by law, nor to impair the authority of the Director under Section 102(c) of the National Security Act of 1947, as amended, 61 Stat. 495."